

UNITED STATES OF AMERICA,)
)
) CRIMINAL ACTION NO.
 v.) 2:17cr100-MHT
) (WO)
 JAMES CALVIN TALLEY, JR.)

This cause is before the court on the motion to continue made by defendant James Calvin Talley, Jr. on August 30, 2017. For the reasons set forth below, the court finds that jury selection and trial, now set for September 5, 2017, should be continued pursuant to 18 U.S.C. § 3161(h)(7).

"In any case in which a plea of not guilty is entered, the trial of a defendant charged in an information or indictment with the commission of an

offense shall commence within seventy days from the filing date (and making public) of the information or indictment, or from the date the defendant has appeared before a judicial officer of the court in which such charge is pending, whichever date last occurs."

§ 3161(c)(1). The Act excludes from the 70-day period any continuance based on "findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial." § 3161(h)(7)(A). In granting such a continuance, the court may consider, among other factors, whether the failure to grant the continuance would "result in a miscarriage of justice," § 3161(h)(7)(B)(i), or "would deny counsel for the defendant ... reasonable time necessary for effective preparation, taking into account the exercise of due diligence." § 3161(h)(7)(B)(iv).

The court concludes that, in this case, the ends of justice served by granting a continuance outweigh the interest of the public and Talley in a speedy trial. On August 29, 2017, the government filed a second

superseding indictment, adding a new count against Talley for possession with intent to distribute methamphetamine; Talley now must prepare to defend this entirely new charge. According to the parties, the addition of this charge significantly increases Talley's potential sentence and might subject him, if convicted, to a sentence of life without parole. Especially given the added complexity and heightened stakes resulting from this new charge, the September 5 trial date does not give Talley's counsel enough time to prepare adequately for jury selection and trial. Accordingly, a continuance is warranted to allow Talley's counsel the opportunity to prepare fully and effectively for trial.

The government does not object to a continuance.

Accordingly, it is ORDERED as follows:

(1) The motion for continuance of defendant James Calvin Talley, Jr. (doc. no. 93) is granted.

(2) The jury selection and trial, now set for September 5, 2017, are reset for November 6, 2017, at 10:00 a.m., in Courtroom 2FMJ of the Frank M. Johnson Jr. United States Courthouse Complex, One Church Street, Montgomery, Alabama.

DONE, this the 31th day of August, 2017.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE